उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(16)

मामला क्रमांक M.A. No. 97/ सन् 2005

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश		कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	APPELLANT Non-applicant No.3		The Oriental Insurance Company Ltd., R.M.S. Near Office, Jagdalpur Distt. Bastar.
		VERSUS	
	RESPONDENTS Applicant	1.	Ratneshwarnath S/o. Babunath, aged 45 years, Brahmin, r/o. Annapurnapara, Kanker, Tahsil & Distt. Kanker.
		2.	Smt. Rashminath, W/o. Ratneshwarnath, aged 38 years, Brahmin, r/o. Annapurnapara, Kanker, Tahsil & Distt. Kanker.
	Non-applicant No.1 & 2	3.	Narendra Kumar Prayag, W/o. N.R.Prayag, aged 40 years, r/o. Gram Kanhanpuri (Marka Tola) Tahsil Narharpur, Distt. Kanker (CG)
		4.	Ramkrishna Sahu, S/o. Puniram, aged 25 years, Caste-Teli, r/o. Gram Patoud (Bazaarpara) Tahsil & Distt. Kanker (CG)
	Dhirendra Mishra,J. **04.05.2007** Shri Shree Kumar Agrawal, Sr. Advocate with Shri Sudhir Agrawal, counsel for the appellant. Smt. Swati Shukla, counsel for respondent No.1 & 2. Heard.		

(17)

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मामला क्रमांक M.A. No. 97/ **सन् 2005**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

The appellant/Insurer has preferred this appeal against the award dated 8th of December 2004 passed by First Motor Accident Claims Tribunal, Kanker in Claim Case No. 93/2003 whereby the learned Tribunal has awarded a sum of Rs. 62,000/- with interest at the rate of 6% from the date of application to the claimants/respondent No.1 and 2 who are dependents, (parents of deceased Ku. Deepshri aged 7 years) who died on 6.11.2002 in a motor vehicle accident as a result of rash and negligent driving by the respondent No. 4 of vehicle No. CG-19 Z/A-0147 owned by respondent No.3.

The only issue raised in this appeal by the appellant is that the driver of the offending vehicle namely Ram Krishna Sahu, respondent No.4 do not have the valid and effective driving license on the date of accident. He was having a licence for driving light motor vehicle. However he was driving a taxi/transport vehicle and the licence produced by the driver did not have the endorsement that he was having licence to drive transport vehicle.

From the evidence available on record it is found that the driver of the vehicle had licence of L.M.V. Private issued, which was valid from 26.07.2000 to 25.07.2020. He was also issued licence of 18.02.2003 as Paid Employee (Commercial Vehicle). However the validity of the above licence was only from 26.07.2000

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

to 17.06.2002 and the accident occurred on 06.11.2002 and on that date he did not have driving license for driving taxi.

It is a settled law that where a driver is driving a particular class of vehicle at the time of accident and he is holding licence of the light motor vehicle at that time, the Insurance Company can avoid its liability only under the circumstance that the main and contributory cause of the accident was that the driver was possessing driving license to drive one class of vehicle and he was driving another class of vehicle.

In the facts of the present case there is no evidence available on record that the accident occurred because the driver of the vehicle did not possess the license to drive vehicle. On the contrary from the evidence available on record, it appears that prior to the accident, he was issued license to drive taxi.

In the circumstance the ground raised by the appellant cannot be accepted. There is no infirmity or illegality in the order impugned, which calls for interference by this Court.

In the result, the appeal being devoid of substance is liable to be dismissed and is accordingly dismissed.

Sd/-
Dhirendra Mishra
Judge

GRPRJ — FS/246— 2/2007 — 50,000.